

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
JEFFREY D. SCHINKEL,  
  
Defendant.

Case No.: CR 09-0033 WHA

**STIPULATION AND ~~[PROPOSED]~~ ORDER  
CONTINUING SENTENCING HEARING**

This matter is scheduled for a sentencing hearing on June 15, 2010, at 2:00 p.m. Based on recent developments surrounding the Presentence Report (PSR), the parties are requesting that the June 15, 2010 date be used as a status date and that the sentencing hearing occur on July 6, 2010, at 2:00 p.m.

Recently, the parties reviewed the initial draft of the PSR and raised objections to that report. On May 26, 2010, the parties met and conferred with Senior Probation Officer Insa Bel'Ochi to discuss the draft PSR. During the meet and confer session, Ms. Bel'Ochi raised a number of questions and alluded significant pieces of evidence which were not in the possession of Assistant U.S. Attorney Owen Martikan or defense counsel Edwin Prather.

1 Neither party knew of the existence of additional forensic reports of the evidence in this case or  
2 psychiatric evaluations of Mr. Schinkel, at a minimum. Ms. Bel'Ochi indicated that her  
3 investigation was continuing and would inform the parties about evidence she relied upon.

4 Defense counsel requested at that time that he receive all reports or other documents  
5 regarding this case in the possession of the Federal Bureau of Investigation, the California  
6 Department of Justice, Immigration and Customs Enforcement (ICE), and other law  
7 enforcement agencies.

8 On June 2, 2010, Ms. Bel'Ochi indicated to defense counsel that, *inter alia*, the  
9 investigation for the PSR was continuing and that there were significant pieces of evidence not  
10 contemplated by the parties.

11 That same day, on June 2, 2010, Ms. Bel'Ochi sent the Court an electronic mail stating  
12 in pertinent part that: "This case is very complex, and the Presentence Report and the Plea  
13 Agreement are in stark contrast on important core issues, including the number of images, the  
14 application of Vulnerable Victim, and the ability of the defendant to return to his current  
15 residence." As of the morning of June 3, 2010, the final PSR was not yet completed.

16 Based on the representations made by Ms. Bel'Ochi in the draft PSR, in person, and in  
17 subsequent phone calls, the defense is concerned and believes that it did not receive all  
18 discovery from the government. One report from the National Center for Missing and Exploited  
19 Children was in Ms. Bel'Ochi's possession having received it from ICE. Until the recent  
20 meeting, the defense and U.S. Attorney's Office was unaware of the existence of said report.

21 The defense is also concerned that based on issues raised by the PSR that an  
22 evidentiary hearing may be required in this case to sort through these issues.

23 Once the final PSR is provided to the parties, both the government and defense will  
24 require a short amount of time to analyze the issues raised by the PSR and the evidence relied  
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1 upon. At a minimum, full discovery must be complied with, and the parties must determine  
2 whether additional evidence exists which has not been considered.

3 As such, the parties propose that on June 15, 2010, at 2:00 p.m., the parties will appear  
4 before the Court to provide a status report regarding any outstanding discovery and evidentiary  
5 issues. The final PSR should be received in advance of this date and therefore afford the  
6 parties the opportunity to keep the Court apprised of the status of the evidence.

7 The parties propose that the sentencing hearing be held on July 6, 2010, at 2:00 p.m.

8 The parties contacted the Court's clerk who indicated that the Court was available on  
9 both June 15 and July 6, 2010.

10 SO STIPULATED:

11 JOSEPH P. RUSSONIELLO  
12 United States Attorney

13 Dated: June 3, 2010

14 \_\_\_\_\_/s/\_\_\_\_\_  
OWEN MARTIKAN  
Assistant United States Attorney

15  
16 Dated: June 3, 2010

17 \_\_\_\_\_/s/\_\_\_\_\_  
EDWIN PRATHER  
Attorney for Defendant  
18 JEFFREY D. SCHINKEL  
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**[PROPOSED] ORDER**

GOOD CAUSE APPEARING and per the parties' stipulation, the sentencing hearing in this case is hereby continued until July 6, 2010, at 2:00 p.m. The parties will appear before the Court on June 15, 2010, at 2:00 p.m. for a status report to the Court re sentencing issues.

IT IS SO ORDERED.

Dated: June 4, 2010.

